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October 20, 2008

Ravalli County Commissioners ✓
215 S. 4th St., Suite A
Hamilton, MT 59840-2703

Ms. Joanne Johnson
Ravalli County Treasurer
215 S. 4th St., Suite H
Hamilton, MT 59840-2703

RECEIVED

OCT 22 2008

Ravalli County Commissioners

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RE: United States of America v. Curtis Swanson, et al./Marchant; CV-08-93-M-DWM
Demand To Pay Property Taxes

Dear Commissioners and Joanne:

You will find attached a Complaint filed by the United States of America as Plaintiff v. Curtis Swanson, et al. The Complaint on page 2 lists the number of parties involved in this suit. Since that time one (1) Notice Of Related Claims has been filed. This complaint concerns the property that the Marchants wish to pay the back taxes on.

The Complaint was filed before the Marchants spoke to Joanne Johnson requesting to pay the back taxes. The Marchants were instructed to contact Mr. George Darragh, Jr., the Assistant U.S. Attorney handling the matter. His name as well as his telephone number in Great Falls was given to them. The concern is that with this many parties suing over property like this, if tax was paid and the Countys interest were closed out, the Marchants might have a claim against the Ravalli County. That is why the Marchants were instructed to work the matter out with Mr. Darragh and if he agreed Ravalli County could accept the back taxes then I would instruct the Treasurer to do so.

Instead the Marchants have kept up an insistent campaign that they be allowed to pay the back taxes and have most recently sent the attached letter of October 10, 2008, threatening to sue the Ravalli County.

The Marchants apparently have no interest trying to resolve the matter themselves and instead wish to hector yourselves with their complaints. I have myself called Mr. Darragh on Friday, October 17th. As expected Mr. Darragh states that he will have to get in touch with the U.S. Attorney in Washington who

is handling the matter. Mr. Darragh states that he may have an answer for me by Friday which would be October 24, 2008, and to call him if I have not heard from him by that date which I will do either that Friday or the next Monday.

The point of this is to let you know, contrary to the Marchants representations, this has never been a simple matter and simply accepting their payment may well jeopardize and expose Ravalli County to further liability. Hopefully we will get the go ahead from Ms. Burroughs because everyone would like to see the County get the taxes. However, the Marchants have known that they are free to contact Mr. Darragh from the beginning and have failed to advance their interest. As I have repeatedly told you before they simply can not expect the County to jeopardize itself in their haste to pickup this property.

Sincerely,



George H. Corn

GHC:hs

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Attorneys for United States of America

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA**

MISSOULA DIVISION

UNITED STATES OF AMERICA)	Civil No. CV-08-93-M-DWM
)	
Plaintiff,)	
)	COMPLAINT
v.)	
)	
CURTIS SWANSON, RONALD STEPHEN)	
CAVENDAR AS TRUSTEE OF THE 2004)	
SWANSON CHILDREN'S TRUST, ANSEL)	
CAPITAL INVESTMENT, LLC, AS)	
SUCCESSOR IN INTEREST TO PRIME)	
ENTERPRISES, LLC, RAVALLI COUNTY,)	
WILLIAM DELANEY DBA)	
LEAVES-N-SNOW,)	
)	
Defendants.)	

COPY

The United States of America, by and through its undersigned counsel, hereby alleges as follows:

JURISDICTION AND PARTIES

1. This is a civil action brought by the United States to reduce to judgment the outstanding federal tax liabilities assessed against Defendant Curtis Swanson, and to foreclose federal tax liens upon certain real property.

2. This action is commenced pursuant to 26 U.S.C. §§ 7401 and 7403, at the direction of the Attorney General of the United States, with the authorization and at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States.

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. §§ 7402 and 7403.

4. Venue properly lies in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1396, because Defendant Curtis Swanson resides in the District of Montana, and because the property sought to be foreclosed is located within the District of Montana.

5. Ansel Capital Investment, LLC is made a party pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the property sought to be foreclosed.

6. The 2004 Swanson Children's Trust is made a party pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the property sought to be foreclosed.

7. Ravalli County is made a party pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the property sought to be foreclosed.

8. William Delaney dba Leaves-N-Snow is made a party pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the property sought to be foreclosed.

THE SUBJECT PROPERTY

9. The property located at 688 Bass Lane, Corvallis, Montana (hereinafter "the Subject Property"), which is the subject of this foreclosure action, is a parcel of real property that is situated in the County of Ravalli, State of Montana, and is legally described as:

Lot 13 of Amended Subdivision Plat No. 309, Block 14 of Hamilton Heights situated in Ravalli County, Montana, according to the official recorded plat thereof.

10. On or about July 8, 2004, a Statutory Warranty Deed for the Subject Property was recorded in the name of 2004 Swanson Children's Trust, with the Ravalli County Recorder.

FIRST CLAIM FOR RELIEF: TO REDUCE TO JUDGMENT FEDERAL TAX ASSESSMENTS MADE AGAINST CURTIS SWANSON

11. The United States incorporates by reference the allegations contained in Paragraphs 1 through 10, above, as if fully set forth here.

12. Employment taxes are reported on quarterly IRS Form 941 and include Federal Insurance Contributions Act ("FICA" or Social Security) tax and income tax withheld from the wages of employees.

13. FNL Investments, LLC ("FNL") failed to collect, truthfully account for, and pay over employment taxes due and owing for the tax period ending March 31, 1998.

14. Curtis Swanson was a person required to collect, truthfully account for, and pay over employment taxes due and owing from FNL, for the tax periods ending March 31, 1998.

15. Curtis Swanson willfully failed to collect, truthfully account for, and pay over employment taxes due and owing from FNL for the tax period ending March 31, 1998.

16. Four Seasons Marine & Cycle, Inc. ("Four Seasons") failed to collect, truthfully account for, and pay over employment taxes due and owing for the tax periods ending June 30,

1998, December 31, 1998, March 31, 1999, June 30, 1999, and September 30, 1999.

17. Curtis Swanson was a person required to collect, truthfully account for, and pay over employment taxes due and owing from Four Seasons, for the tax periods ending June 30, 1998, December 31, 1998, March 31, 1999, June 30, 1999, and September 30, 1999.

18. Curtis Swanson willfully failed to collect, truthfully account for, and pay over employment taxes due and owing from Four Seasons for the tax periods ending June 30, 1998, December 31, 1998, March 31, 1999, June 30, 1999, and September 30, 1999.

19. Restaurant Teams International, Inc. ("RTI") failed to collect, truthfully account for, and pay over employment taxes due and owing for the tax periods ending March 31, 1998, December 31, 1998, March 31, 1999, June 30, 1999, September 30, 1999, December 31, 1999, March 31, 2000, June 30, 2000, September 30, 2000, December 31, 2000, and March 31, 2001.

20. Curtis Swanson was a person required to collect, truthfully account for, and pay over employment taxes due and owing from RTI, for the tax periods ending March 31, 1998, December 31, 1998, March 31, 1999, June 30, 1999, September 30, 1999, December 31, 1999, March 31, 2000, June 30, 2000, September 30, 2000, December 31, 2000, and March 31, 2001.

21. Curtis Swanson willfully failed to collect, truthfully account for, and pay over employment taxes due and owing from RTI for the tax periods ending March 31, 1998, December 31, 1998, March 31, 1999, June 30, 1999, September 30, 1999, December 31, 1999, March 31, 2000, June 30, 2000, September 30, 2000, December 31, 2000, and March 31, 2001.

22. On the dates and in the amounts set forth below, a duly authorized delegate of the Secretary of Treasury made federal tax assessments against Curtis Swanson, pursuant to 26 U.S.C. § 6672 as a result of his willful failure to collect, truthfully account for, and pay over to

the United States taxes required to be withheld from wages paid to employees of FNL, Four

Seasons and RTI:

Type of Tax	Tax Period	Assessment Date	Amount Assessed	Unpaid Balance Plus Accruals as of June 30, 2008 (includes applied credits)
Trust Fund 26 U.S.C. § 6672	03/31/98	09/20/99 (FNL) 06/06/02 (RTI)	\$32,650.45 \$18,690.34	\$39,833.18
Trust Fund 26 U.S.C. § 6672	06/30/98	02/25/03 (FS)	\$13,468.76	\$18,775.86
Trust Fund 26 U.S.C. § 6672	12/31/98	06/06/02 (RTI) 02/25/03 (FS)	\$50,462.53 \$47,044.74	\$132,568.52
Trust Fund 26 U.S.C. § 6672	03/31/99	06/06/02 (RTI) 02/25/03 (FS)	\$61,321.49 \$38,713.07	\$143,105.15
Trust Fund 26 U.S.C. § 6672	06/30/99	06/06/02 (RTI) 02/25/03 (FS)	\$36,094.90 \$24,764.18	\$86,990.16
Trust Fund 26 U.S.C. § 6672	09/30/99	02/25/03 (FS) 06/18/00 (RTI)	\$25,954.51 \$30,067.35	\$70,164.61
Trust Fund 26 U.S.C. § 6672	12/31/99	06/18/03 (RTI)	\$20,482.12	\$28,114.08
Trust Fund 26 U.S.C. § 6672	03/31/00	06/18/03 (RTI)	\$9,027.29	\$12,390.98
Trust Fund 26 U.S.C. § 6672	06/30/00	06/18/03 (RTI)	\$8,759.91	\$12,023.98
Trust Fund 26 U.S.C. § 6672	09/30/00	06/18/03 (RTI)	\$15,663.71	\$21,500.24
Trust Fund 26 U.S.C. § 6672	12/31/00	06/18/03 (RTI)	\$17,423.05	\$23,915.14
Trust Fund 26 U.S.C. § 6672	03/31/31	06/18/03 (RTI)	\$29,729.38	\$40,807.03
Total				\$630,188.93

_____23. Timely notice of and demand for payment of the assessments set forth in

Paragraph 22 above has been made upon Curtis Swanson, as required by Section 6303 of the Internal Revenue Code, Title 26 U.S.C.

24. Despite notice and demand for payment of the assessments set forth in Paragraph 22 above, Curtis Swanson has neglected, refused, or failed to pay the trust fund tax assessments against him and, as of June 30, 2008, there remains due and owing to the United States on those assessments the total sum of \$630,188.93, plus statutory interest and other statutory additions as provided by law.

THIRD CLAIM FOR RELIEF: TO DETERMINE THAT THE 2004 SWANSON CHILDREN'S TRUST IS AN ALTER EGO AND NOMINEE OF CURTIS SWANSON

25. The United States incorporates by reference the allegations contained in Paragraphs 1 through 24, above, as if fully set forth here.

26. The Subject Property is Curtis Swanson's personal residence.

27. The 2004 Swanson Children's Trust holds nominal title to the Subject Property solely for the benefit of Curtis Swanson. Defendant Curtis Swanson has remained in continuous use and possession of the Subject Property and has enjoyed all burdens and benefits of ownership.

28. Curtis Swanson acquired the Subject Property in the name of the 2004 Swanson Children's Trust at a time in which he had increasing federal tax liabilities.

29. Curtis Swanson used the 2004 Swanson Children's Trust to defraud creditors, including the United States, and shield himself from personal liabilities.

30. Curtis Swanson commingled funds of the 2004 Swanson Children's Trust with his personal funds and used assets of the 2004 Swanson Children's Trust as his own.

31. The 2004 Swanson Children's Trust and Curtis Swanson have the same address,

which is Curtis Swanson's personal residence.

32. Curtis Swanson made all decisions with regard to the administration of the 2004 Swanson's Children's Trust and has otherwise been in control of Trust and the assets held in its name.

33. The 2004 Swanson Children's Trust does not now have, nor has it ever had, an ownership or other interest in the Subject Property

34. The 2004 Swanson Children's Trust is a nominee of Curtis Swanson with respect to the purported title and ownership of the Subject Property.

35. The 2004 Swanson Children's Trust is an alter ego of Curtis Swanson.

FOURTH CLAIM FOR RELIEF: TO SET ASIDE FRAUDULENT CONVEYANCES

36. The United States incorporates by reference the allegations contained in Paragraphs 1 through 35, above, as if fully set forth here.

37. The transfer of the real property on or about July 8, 2004, described in paragraph 10, above, constituted a fraudulent transfer under the Montana Uniform Fraudulent Conveyances Act, Montana Code Ann. § 31-2-326 *et seq.*

38. The Statutory Warranty Deed for the Subject Property was recorded in the name of 2004 Swanson Children's Trust, rather than Curtis Swanson, the true purchaser, with the actual intent to hinder, delay, or defraud the United States of present value and future lawful taxes. As such, the purported conveyance to the 2004 Swanson Children's Trust, rather than Curtis Swanson, is fraudulent and has no effect as to the United States under the law of the State of Montana.

39. The Statutory Warranty Deed for the Subject Property was recorded in the name

of 2004 Swanson Children's Trust, rather than Curtis Swanson, the true purchaser, without Curtis Swanson receiving reasonably equivalent value and during a period when Curtis Swanson intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they came due. As such, the purported conveyance to the 2004 Swanson Children's Trust, rather than Curtis Swanson, is fraudulent and has no effect as to the United States under the law of the State of Montana.

40. The Statutory Warranty Deed for the Subject Property was recorded in the name of 2004 Swanson Children's Trust, rather than Curtis Swanson, the true purchaser, without Curtis Swanson receiving reasonably equivalent value and at a time when Curtis Swanson was insolvent. As such, the purported conveyance to the 2004 Swanson Children's Trust, rather than Curtis Swanson, is fraudulent and has no effect as to the United States under the law of the State of Montana.

FIFTH CLAIM FOR RELIEF:
TO FORECLOSE THE FEDERAL TAX LIENS ON SUBJECT PROPERTY

41. The United States incorporates by reference the allegations contained in Paragraphs 1 through 40, above, as if fully set forth here.

42. Pursuant to 26 U.S.C. §§ 6321 and 6322, tax liens arose in favor of the United States upon all property and rights to property, whether real or personal, belonging to Defendant Curtis Swanson as of the date of assessments described in Paragraphs 16 and 23 above.

43. The Subject Property has at all times pertinent herein been property belonging to Defendants Curtis Swanson and only to him. Accordingly, the federal tax liens at issue attached to the Subject Property when the liens arose, and the tax liens have continued to the present to attach to that real property without interruption.

44. On or about June 6, 2005, in order to provide notice to third parties of statutory liens in compliance with 26 U.S.C. § 6323, the IRS filed a Notice of Federal Tax Lien against the 2004 Swanson Children's Trust, as alter ego, nominee, and/or fraudulent transferee with the Ravalli County Recorder with respect to Curtis Swanson's trust fund tax liabilities for the tax periods ending March 31, 1998, June 30, 1998, September 30, 1998, December 31, 1998, and March 31, 1999.

45. On or about June 6, 2005, in order to provide notice to third parties of statutory liens in compliance with 26 U.S.C. § 6323, the IRS filed a Notice of Federal Tax Lien against the 2004 Swanson Children's Trust, as alter ego, nominee, and/or fraudulent transferee with the Ravalli County Recorder with respect to Curtis Swanson's trust fund tax liabilities for the tax periods ending June 30, 1999, September 30, 1999, December 31, 1999, March 31, 2000, June 30, 2000, September 30, 2000, December 31, 2000, and March 31, 2001.

46. Under 26 U.S.C. § 7403(c), the United States is entitled to a decree of sale of the Subject Property to enforce its tax liens

WHEREFORE, the United States prays as follows:

A. That this Court determine and adjudge that Curtis Swanson is indebted to the United States in the amount of **\$630,188.93**, for federal tax liabilities assessed under 26 U.S.C. § 6672, less any additional credits according to proof, plus interest and other statutory additions, as provided by law, that have accrued since June 30, 2008, and that judgment in that amount be entered against Curtis Swanson and in favor of the United States;

B. That this Court determine and adjudge that the 2004 Swanson Children's Trust is an alter ego of Curtis Swanson and a nominee of Curtis Swanson with respect to the Subject

Property, and that the 2004 Swanson Children's Trust has no interest in these properties that is superior to that of the United States;

C. That this Court determine and adjudge that the transfer of the Subject Property to the name of the 2004 Swanson Children's Trust rather than Curtis Swanson was and is fraudulent, and that the transfer is utterly null and void and of no effect as to the rights of the United States as a creditor of Curtis Swanson, and that the transfer be set aside;

D. That the federal tax liens against Curtis Swanson encumbering the Subject Property be foreclosed, and the property be sold to satisfy the liens and outstanding and delinquent federal tax assessments against Curtis Swanson;

E. That this Court determine the validity and priority of all liens on and other interests in the real property at issue and order that the proceeds from any judicial sale of such property be distributed accordingly; and

F. That the United States be granted its costs and attorney's fees herein, and for such other and further relief as this Court deems just and proper.

Dated this 1st day of July, 2008.

MCGREGOR W. SCOTT
United States Attorney

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